IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.1.2007

CORAM:

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN

C.M.A.No.935 of 1999
and C.M.P.No.11803 of 1999
....

M/s.Sundaram Spinning Mills (P) Ltd.,
Komarapalayam, rep. by its
General Manager.
... Appellant/Petitioner

vs.

1.The Regional Director,
Employees State Insurance Corporation,
Madras.

2.The Manager Local Office,
Employees State Insurance Corporation,
Pallipalayam, Thiruchengode taluk.
... Respondents/Respondents

C.M.A. filed under Secition 82 of the Employees state Insurance Act against the order of Principal District Judge (ESI Court), Salem in E.S.I.O.P.No.2 of 1990 dated 26.2.1999.

For appellant : Mr.M.R.Raghavan
For respondents: Mrs.Jayakumari for R1

ORDER

This appeal is directed against the order dated 26.2.1999 made in E.S.I.O.P.No.2 of 1990 on the file of Principal District Judge (ESI Court), Salem.

2. The only defence taken by the appellant is that the appellant Mill is not covered under the notification issued under section 3(1) of the Employees State Insurance Act, 1948. While the respondent/Employees State Insurance Corporation (E.S.I.) contends that Kumarapalayam revenue village includes Agraharam where the appellant Mill is located, the case of the appellant is that Agraharam is a separate revenue village. Unfortunately, the E.S.I. Court did not render any finding on the same.

3. Referring to the evidence of P.W.2, the learned counsel appearing for the appellant contends that the Agraharam is a separate revenue

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village and it is not a part and parcel of Kumarapalayam revenue village. In my view, it is a matter to be substantiated by the parties by relevant material evidence, supported by revenue records and relevant notifications issued by the respondent E.S.I. Corporation. When the case of the appellant is that the area where the appellant Mill is located is not covered under the notification issued by the respondent E.S.I. Corporation, which goes to the root of the matter, the refusal to go into that aspect of the matter vitiates the impugned order dated 26.2.1999.

4. Hence, the order impugned dated 26.2.1999 is set aside and the matter is remitted back to the E.S.I. Court (Principal District Judge, Salem) for fresh disposal on merits, of course, after providing reasonable opportunity to both the parties, which shall be done within six months from the date of receipt of the records.

5. The appeal is disposed of accordingly. No costs. C.M.P.No.11803 of 1999 is closed.

na.

Sd/-
Assistant Registrar

/true copy/

Sub Assistant Registrar.

To

1.The Principal District Judge
(ESI Court), Salem.
2. The Section Officer, V.R. section,
High Court, Chennai.
+ One cc to the Mr. M.r. Raghavan Advocate SR 3242
+ One cc to Mrs. S. Jayakumari, Advocate SR 4281.
MS (co)
sg 7/2/07

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